

(9) A brief statement of what the defendant intends to prove as a defense.

Defendants' Statement

Defendants intend to demonstrate that it discharged Blozis from her employment for legitimate non-discriminatory and non-retaliatory reasons, specifically, her persistent failure to properly perform her duties. With respect to Blozis' retaliation claim, Defendants will show that Mellon Trust decided to place Blozis on final written warning on April 30, 2003 prior to her alleged internal complaint. Accordingly, Blozis cannot prove that her final written warning was given in retaliation for her May 1, 2003 internal age discrimination complaint to Rosemary Thomas, Mellon Trust's Human Resources. Moreover, Defendants will prove that in any event, Plaintiff's termination of her employment was not retaliatory and based on legitimate performance reasons. Defendants also intend to demonstrate that no harassment occurred and that despite knowledge of Mellon's policies, Plaintiff failed to avail herself of Defendants' procedure for addressing complaints of harassment by completely failing to report the alleged harassing conduct.

Defendants will further prove that Plaintiff has not suffered from any compensable emotional distress and has no economic damages, having decided to move to Florida after her employment ended and failing to make any serious effort to find comparable employment. Additionally, Defendants will show that Plaintiff has fully mitigated her damages with her new position at Orion Bank.